

**STATE OF HAWAII**  
**Department of Land and Natural Resources**  
**Office of Conservation and Coastal Lands**  
Honolulu, Hawai'i

February 8, 2008

**Board of Land and  
Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i**

**File No.: CC KA-08-01**  
Existing 180-Day Exp.: February 28, 2008  
Proposed 180-Day Exp.: April 28, 2008

**REGARDING:** Request to Extend the Processing Period in Order to Process a Contested Case Hearing for Conservation District Use Application (CDUA) KA-3399 for the Consolidation of Two Parcels and the Construction of the Morrow Single Family Residence (SFR)

**APPLICANT:** David M. and Linda Morrow

**AGENT:** Gregory Mooers,  
c/o Randy Vitousek, Esq., Cades Schutte LLP,  
75-170 Hualalai Road, Suite 303, Kailua Kona, HI 96740

**LANDOWNER:** David M. and Linda Morrow

**LOCATION:** Hā'ena, Hanalei District, Kaua'i

**TMK:** (4) 5-9-03:10, 45

**AREA OF PARCEL:** 03:10: approximately 7,112 square feet  
03:45: approximately 38,555 square feet

**USE:** 3480 square feet

**SUBZONE:** Resource and Limited

**BACKGROUND:**

On July 13, 2007, Roy A Vitousek, III, Esq., acting on behalf of applicants David M. and Linda B. Morrow, requested a Contested Case hearing to challenge the Office of Conservation and Coastal Land's recommendation to deny Conservation District Use Application (CDUA) KA-3399 to consolidate the two above mentioned subject parcels and to construct a single family residence in Hā'ena, Hanalei, Kaua'i.

**TIME EXTENSION REQUESTS:**

At the same time as he petitioned for a contested case hearing Mr. Vitousek requested

that the processing period for the application be extended. On July 19, 2007 the Chair of the Board of Land and Natural Resources granted the request, extending the processing deadline to October 31, 2007.

On July 27, 2007 the Board authorized the appointment of a Hearing Officer for the case.

On July 30, 2007 the Chair selected Lou Chang, ALC as Hearing Officer.

On September 10, 2007 the challenge period for Mr. Chang's appointment passed without a challenge.

On October 12, 2007 The Board accepted Mr. Vitousek's petition to extend the processing time for an additional sixty days, establishing a new deadline of December 30, 2007.

On November 16, 2007 The Board accepted Mr. Vitousek's petition to extend the processing time for an additional sixty days, establishing a new deadline of February 28, 2008.

On January 24, 2008 2007 OCCL received a request to extend the processing period an additional 60 days. This will extend the processing period until April 28, 2008.

#### **AUTHORITY FOR GRANTING EXTENSIONS:**

The authority for granting time extensions to the CDUA processing period is provided in §183C-6(b), HRS, which states that *when a contested case hearing is required pursuant to Chapter 91, the one-hundred eighty days may be extended an additional ninety days at the request of the applicant. Any request for additional extensions shall be subject to the approval of the Board.*

#### **DISCUSSION:**

OCCL notes that the next stages in the contested case- the Hearing on Standing and the Scheduling Hearing - can commence once the parties make their availability known to the Hearing Officer. OCCL notes that the Department is required by law to post a public notice of the Hearing on Standing in a paper of record 21 days prior to holding the Hearing on Standing.

Counsel's request will extend the processing time on the application to April 28, 2008. This extension will be necessary in order to conduct the Contested Case Hearings.

It is OCCL's policy to always schedule the Board Hearings the meeting before the permit applications potentially expire. Should the Case not be concluded by the proposed deadline, OCCL anticipates receiving an additional request for an extension for the April 11, 2008 Board meeting. OCCL's deadline for receiving requests for agenda items for this Board Meeting is Wednesday, April 2, 2008.

Staff, therefore, recommends as follows:

**RECOMMENDATION:**

That the Board of Land and Natural Resources grant Mr. Vitousek's request to extend the processing period on CDUA KA-3399 60 days – bringing the deadline to April 28, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael Cain", written in a cursive style.

Michael Cain  
Staff Planner

Approved for submittal:

A handwritten signature in black ink, appearing to read "Laura H. Thielen", written in a cursive style.

LAURA H. THIELEN, Chairperson  
Board of Land and Natural Resources

ca des schutte

January 28, 2008

**Roy A. Vitousek III**  
Direct Line: (808) 329-5811  
Direct Fax: (808) 326-1175  
E-mail: rvitousek@ca des.com

VIA FACSIMILE (808) 587-2999  
VIA FIRST-CLASS MAIL

Samuel J. Lemmo, Administrator  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
P.O. Box 621  
Honolulu, Hawaii 96809

Randall K. Ishikawa, Esq.  
Deputy Attorney General  
Land/Transportation Division  
State of Hawaii  
465 South King Street, Room 300  
Honolulu, Hawaii 96813

Re: Conservation District Use Application (CDUA) KA-3399  
Proposed Morrow Living Trust Single Family Residence Project,  
Haena, Island of Kauai, TMK: (4) 5-9-003:010 and 045

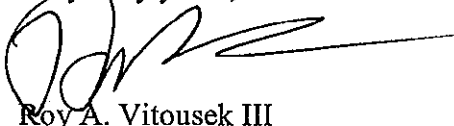
Dear Mr. Ishikawa:

The purpose of this letter is to request a 60-day extension of the decision deadline relative to the above-referenced CDUA.

The current deadline, as established by the Department's November 19, 2007, letter, is February 28, 2007. A 60-day extension would establish the decision deadline as April 28, 007.

Thank you for your attention to this matter. As always, if you have any questions or require additional information, please contact me.

Very truly yours,



Roy A. Vitousek III

for

CADES SCHUTTE

A Limited Liability Law Partnership

RAV : bah

C S

Cades Schutte Building  
1000 Bishop Street, Suite 1200  
Honolulu, Hawaii 96813  
Tel: 808.521-9200  
Fax: 808.521-9210  
www.cades.com

Kona Office  
75-170 Hualalai Road, Suite 303  
Kailua Kona, Hawaii 96740  
Tel: 808.329-5811  
Fax: 808.326-1175